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IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

No. 980

JAMES F. McMANUS,

Petitioner,

—v.—

LAKE CENTRAL AIRLINES, INC.,

Respondent.

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR A WRIT TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

JAMES F. McMANUS
Attorney for Petitioner, Pro Se
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Petitioner, James F. McManus, respectfully petitions for a rehearing of the order made and entered herein denying my petition herein for a writ to the United States Court of Appeals for the Second Circuit and submits:

That the following circumstances of substantial and controlling effect have taken place:

On June 2, 1964 the United States Court of Appeals for the Second Circuit made its decision in *Trans World Airlines, Inc. v. Howard R. Hughes et al.*, 2d Cir. Docket Nos. 28405-6 and has now said therein at page 2476 of its record:

"The Aviation Act itself bears testimony that matters such as those with which we are here concerned were not intended to be placed without the competence of the federal judiciary. Title 49 U. S. C. § 1506 declares that 'Nothing contained in this chapter shall in any way abridge or alter the remedies now existing at com-

mon law or by statute, but the provisions of this chapter are in addition to such remedies." Moreover, the Act fails to empower the Board to grant the very relief principally sought by the plaintiff in this action —the award of money damages, trebled under the mandate of the antitrust laws."

The case of petitioner in the Eastern District Court only sought money damages to be awarded by a jury which C. A. B. surely could not give. The case here sought to be reviewed will show that even during the Board's investigation the carriers irreparably damaged your petitioner when it was believed the Board's record in the matter was closed. Petitioner could not seek nor could the Board give him any award of money damages for acts and non-action taken.

It is pointed out that the complaint filed in the District Court in 1958 complained of action and non-action from 1954 to the September 1957 meeting of the carriers with respect to the sponsored application for petitioner's one remaining travel agency. The Board's Order No. E-14012 of June 1959 condemning the carriers for their treatment of petitioner which C. C. A. 2 affirmed could grant no award of money damages—the Board would and could only order all the carriers including Lake Central Airlines, Inc. to amend their resolutions to provide safeguards so that persons such as your petitioner who would "enlighten" the Board would not be likewise irreparably damaged right under the "watchful" eye of the Board.

Surely now the Supreme Court must review the Circuit Court's decision which concluded:

"The appellant is here seeking precisely that relief to which our earlier opinion told him he was not entitled."

This Court will no doubt be requested to review the Circuit Court's decision in the *Hughes-TWA* matter and petitioner submits that it will rightfully grant such review. By the same token petitioner's case is of no less public interest or significance—indeed a respected Committee of the House believed that your petitioner's matter was of such significance as to hold hearings and make an extended report quoting him at length—the Civil Aeronautics Board conducted a lengthy investigation—one which did not have to be instituted by it without a finding to the effect that it was in the public interest. Ten years of your petitioner's life has been involved!

WHEREFORE petitioner respectfully submits that any order denying certiorari herein be vacated and your petitioner's petition for a writ of certiorari be granted.

Respectfully submitted.

JAMES F. McMANUS
Attorney for Petitioner Pro Se

Certificate

I do hereby certify that this Petition for a Rehearing is presented in good faith and not for delay and is restricted to the grounds above specified.

JAMES F. McMANUS
Attorney for Petitioner Pro Se